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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,645	10/16/2001	Peter Melchior	13364/1025	7543
20350 7590 12/24/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
DASS, HARISH T				
ART UNIT		PAPER NUMBER		
3692				
MAIL DATE		DELIVERY MODE		
12/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/981,645

Applicant(s)

MELCHIOR ET AL.

Examiner

HARISH T. DASS

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-20, 36 and 38 is/are pending in the application.
- 4a) Of the above claim(s) 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-20 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date 9/21/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to applicant's communication of 9/22/2008.

1. Status of claims:

Claims 1-2, 21-35 and 37 are canceled.

Claims 3-20 and 36 are pending.

Claim 38 is withdrawn.

2. The Examiner acknowledges a typo error in last office action paper 20080321 page 3 last paragraph the "[L/C – col. 1 lines 24-35]", this reference should be deleted.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-20 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tozzoli et al. (hereinafter Tozzoli – US 5,717,989) in view of Martin et al (Martin – US 7,047,219).

Re. Claims 3 and 36, Tozzoli discloses means for allowing electronic procurement of a purchase order agreement between a seller and a buyer and relating to a transaction in

one or more goods or services, and for electronically storing the purchase order agreement (purchase order) [col. 2 lines 1-3];

means for receiving and storing electronic evidence that the seller has performed in connection with fulfilling the seller's obligations as defined by the purchase order agreement [col. 13 lines 1-23];

means for electronically evaluating whether the seller has complied with the seller's obligations as defined by the purchase order agreement (BOL) [col. 16 lines 18-25];

means for electronically providing a payment instruction if the seller has been evaluated to have complied with the seller's obligations as defined by the purchase order agreement (insurance certificate)[col. 1 lines 5-57]; and means for receiving and storing electronic evidence that the buyer has made one or more payments in connection with fulfilling buyer's obligations as defined by the purchase order agreement [claim 1].

Tozzoli explicitly does not disclose means for electronically providing an opportunity for the seller to obtain financing in relation to the one or more goods or services. However, Martin discloses means for electronically providing an opportunity for the seller to obtain financing in relation to the one or more goods or services [Figures 1-2; col. 1 lines 1-15, 55-67; col. 2 line 59 to col. 3 line 3; col. 7 lines 15-45]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Tozzoli and include means for electronically providing an opportunity for the seller to obtain financing in relation to the one or more goods or services, as

disclosed by Martin, to allow the seller (exporter) to securitized his invoices and secure a financing mean to improve his export productivity/capacity for meeting the buyer commitment.

Re. Claim 4, Tozzoli discloses wherein the financing is to be utilized by the seller in producing one or more goods or services in accordance with the purchase order agreement [claim 12].

Re. Claims 5-6, Tozzoli discloses wherein the financing comprises a loan provided to the seller by a lender, wherein the lender is a financial institution [col. 5 lines 35-46].

Re. Claims 7-17, Tozzoli discloses wherein the financing is provided by a lending institution, and wherein the means for electronically providing an opportunity for the seller to obtain financing in relation to the one or more goods or services comprises means for allowing the seller, though the system to choose the lending institution from whom the seller is requesting the financing (see entire document particularly col. 1 line 1 to col. 4 line 63), wherein allowing the seller to choose the lending institution through the system provides at least one of a customer source and a sales channel to the lending institution (bank), wherein the loan is provided to the seller at least in part in return for the seller assigning to the lender at least a portion of the seller's entitlement to payment (insurance is to cover lender's losses as will as others) from the buyer in connection with the purchase order agreement, wherein the lender becomes a party to

a transaction associated with the purchase order agreement, and wherein the lender becomes entitled to at least a portion of payment (portion of insurance to cover loss) by the buyer in relation to the purchase order agreement, comprising means to allow the lender to access a first set of information through the system and relating to the transaction, wherein the first set of information is limited to information that is pertinent to the lender's involvement in the transaction, means for allowing the lender access through the system to information through the system relating to at least one of the buyer's credit qualifications and the buyer's credit exposure (credit limit – col. 5 lines 61-62), allow the lender access through the system to information relating to a cumulative amount (all transactions col. 5 lines 60-67) of credit exposure by the buyer to the seller based upon all transactions between the buyer and the seller for which the system stores information, wherein the lender is entitled to at least a portion of any cargo insurance proceeds that may issue in relation to the transaction, wherein the lender is entitled to at least a portion of any buyer credit assurance proceeds that may issue in relation to the transaction, wherein the seller's obtaining the loan is contingent upon at least one of the seller's satisfying all of the seller's obligations (shipment; BOL) as defined by the purchase order agreement and the buyer's waiving any rights to avoid any payments associated with the purchase order agreement due to the seller's failure to fulfill the seller's obligations as defined by the purchase order agreement (col. 1 line 1 to col. 4 line 63).

Re. Claims 18-20, Tozzoli discloses evaluating whether a first set of payment guarantee criteria are met, and means for, if the first set of payment guarantee criteria are evaluated to be met, the system providing a payment guarantee to the seller to guarantee payment by the buyer in connection with the purchase order agreement, wherein the first set of criteria comprises at least one of a credit exposure of the buyer being evaluated by the system to be within a specified maximum credit exposure, and the seller being evaluated by the system to have complied with the seller's obligations as defined by the purchase order agreement, wherein the means for electronically evaluating whether the seller has complied with the seller's obligations as defined by the purchase order agreement comprises means for electronically evaluating whether the seller has complied with at least a portion of the seller's obligations (shipping, BOL) as defined by the purchase order agreement, and wherein means for electronically providing a payment instruction if the seller has been evaluated to have complied with the seller's obligations as defined by the purchase order agreement comprises means for electronically providing a payment instruction if the seller has been evaluated to have complied with the at least a portion of the seller's obligations as defined by the purchase order agreement [col. 1 line 1 to col. 4 line 32].

Response to Argument

4. Applicant's arguments filed 9/22/2008 have been fully considered but they are not persuasive.

In response to applicant's remark "Election/Restriction The Office Action asserts that claim 38 is ...", the restriction is of claim 38 is proper. Review of the applicant's original specification show that there are numerous embodiments and only one of the embodiment (page 44 line 8+) discloses providing financing and the remaining embodiment do not include providing financing. Therefore claims 36 and 38 are disclosed in different patentable distinguished embodiment. It is noted that claim 38 is currently withdrawn.

In response to applicant's remark "35 U.S.C. §103 Rejections -To support a prima facie case of obviousness ..." that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), additionally see KSR. In this case, examiner has provided prior art which read on broadest interpretation of the claimed limitations and the reason why one skill in the art at the time of invention would modify the primary reference to include the missing feature that are disclosed secondary reference see page 4 "to allow the seller ... buyer commitment." It would be obvious to one skill in the art to include full service trade system of Tozzoli the ability of the seller to get credit to finance his business operation as taught by Martin since the

claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one ordinary skill in the art would have recognized that the results of the combination were predictable.

In response to applicant's remarks "Independent claims 36 and 38 recite similar features. The ...", the examiner respectfully disagree with applicant's interpretation of the "providing an opportunity for the seller to obtain financing ..." Martin provides opportunity to the seller to electronically get financing from financial institution and can provide the finance "financial institution can also facilitate financing" see Col. 1 lines 52-53 "The financial institution 104, insurance broker 108, and insurance underwriter 110 are in the business of arranging and/or providing such receivables financing or credit insurance" see col. 2 lines 51-54. It is obvious that Martin providing an opportunity for the seller to obtain financing.

In response to applicant's remark "Claims 4-6 Solely to advance prosecution of the present application, several dependent claims are ..." One of the funder's criteria is the shipment of the goods which is service to by the buyer to be complete [see claim 12 complies with funder's criteria].

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARISH T. DASS whose telephone number is (571)272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Abdi Kambiz can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Harish T Dass/
Primary Examiner, Art Unit 3692

12/22/2008